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Item No: 7.5

Application: 190079

Agent: Manor Services

Proposal: Removal of condition 3 of planning permission 101276 (dated 24 Aug 2010) stating 'The building hereby permitted shall only be occupied by dependent relatives of the residents of the main dwelling on this site known as Stirling Lodge and the planning unit shall not be subdivided, seperated or altered so as to create two or more dwelling units'.
(Retrospective application.)

Location: New Barns, Church Lane, Stanway, Colchester, CO3 8LP

Ward: Marks Tey & Layer

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the site is outside the adopted settlement boundary for Colchester in an area shown as countryside and relates to the creation of an independent dwelling in lieu of an existing annexe. The proposal is therefore a Departure to Policy.

2.0 Synopsis

- 2.1 The key issue for consideration is the principle of development; in particular the location of the site outside the settlement boundary. The proposal has accordingly been advertised as a Departure to policy as the scheme relates to an independent dwelling in the countryside. Other issues covered in the report include impact on the character of the area; impact on residential amenity and parking provision, setting of the nearby Listed Building and a Wildlife mitigation payment.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable, a Departure from Policy is justified and that approval is recommended.

3.0 Site Description and Context

- 3.1 The site lies in the countryside outside of the settlement limits for Colchester. At its closest the settlement boundary is 75m from the annex. In the Emerging Local Plan a residential allocation has been identified to the north of the site 75m away from New Barns.
- 3.2 A new highway bridge has been created that serves Church Lane connecting the site to the new Lakelands development to the east.
- 3.3 The annex is situated between Stirling Lodge, the host dwelling and the Oldhouse. The annex is served by its own access off the highway. This access is also used to serve a parcel of land to the NW of the site which is part of the Stirling Lodge Estate. There is a Grade II Listed Building known as Oldhouse to the North West of the site.
- 3.4 The annex is a single storey chalet style building. There are several outbuildings that serve the annex directly.

4.0 Description of the Proposal

- 4.1 The proposal is to change the use of the annexe to a single 2 bedroom, independent dwellinghouse by removing condition 3 of planning permission 101276 (dated 24 Aug 2010) which stated: 'The building hereby permitted shall only be occupied by dependent relatives of the residents of the main dwelling on this site known as Stirling Lodge and the planning unit shall not be subdivided, separated or altered so as to create two or more dwelling units'.
- 4.2 This is a retrospective application as independent occupation has already commenced.
- 4.3 A parking area is shown in front of the annexe that would provide independent parking area that will easily serve 2 or more vehicles. No external alterations are proposed.
- 4.4 The Statement of Support presented by the applicants gives a brief history to New Barns to demonstrate how the current living arrangements have evolved and the arguments for the removal of the condition. Please see summary below:
 - 4.4.1 New Barns was granted planning permission as an annexe to Stirling Lodge eight years ago, the purpose was to provide assisted living accommodation to the applicant's mother and father, the parents of the applicants sadly have passed away. The applicants now live in New Barns and rent Stirling lodge to an elderly gentleman with full time care.
 - 4.4.2 The Statement of Support argues that the local area has changed considerably since the permission was granted 8 years previously, with new residential, commercial and retail development and the development of the Church Lane bridge. The land abutting Church Lane to the south of both Stirling Lodge and New Barns has outline Planning Permission for 'Commercial Leisure'. Rather than let the building stand empty the applicants moved into the annex whilst renting out Stirling Lodge.
 - 4.4.3 It is also argued that the change to the condition would not have a harmful impact on neighbouring properties or the surrounding area.

5.0 Land Use Allocation

- 5.1 Countryside and domestic curtilage.

6.0 Relevant Planning History

- 6.1 101276
29/6/2019 – Full
New detached 2 bedroom single storey annexe in the grounds of Stirling Lodge.
Approved Conditional - 24/08/2010

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

UR2 - Built Design and Character

TA5 - Parking

ENV1 - Environment

ENV2 - Rural Communities

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings#

DP14 Historic Environment Assets

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access

DP19 Parking Standards

7.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).

7.5 There are no relevant Neighborhood Plans.

7.6 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

7.7 There are no relevant adopted Supplementary Planning Documents (SPD).

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 Highway Authority:

The Highway Authority does not object to the proposals as submitted.

8.3 Conservation Officer:

1.0_ Scope of Works: Summary

1.1 The planning application seeks to remove Condition 3 of Planning Permission 101276 which involves the occupancy of New Barns: according to the condition, the building could only be occupied by dependent relatives of the residents of Stirling Lodge and could not be subdivided, separated or altered so as to create independent dwelling units.

2.0_ Comments on Impact Upon Heritage

2.1 New Barns is a contemporary building that was added to the site of Stirling Lodge about 3 years ago according to the Supporting Statement. Stirling Lodge is a modern bungalow too and therefore neither of the two buildings has any historic interest. They are however situated at close distance to the Grade II listed Oldhouse Farmhouse (List UID 122485) to the and therefore any scheme that involves them has the potential to affect the historic building's setting.

2.2 The present application involves the occupancy status of New Barns and Stirling Lodge. The relevant arrangements haven't required any material alterations to the buildings or its surroundings which could have potential impact on the adjacent heritage asset.

2.3 However, the issue can potentially raise some concerns regarding the impact on Oldhouse Farmhouse if the review of the application takes also into consideration planning application 182467, which seeks permission for the demolition of a single storey outbuilding to the NE of New Barns and right next to the listed property and its replacement by a building of increased footprint and size. In this case, it could be argued that the use of New Barns as an independent dwelling appears to generate new demands for additional floor space which seek to be met by the increase of density within the setting of the listed building. In that sense, the use of the two buildings as individual dwellings may have the potential to impact the setting of the listed buildings by prompting further changes on the site (addition of new auxiliary outbuildings, additions/increase of the existing ones, extensions to the main buildings etc). On the other hand, the use of New Barns as an annexe to Stirling Lodge would not rule out that the owners would still wish to change the use and appearance of the existing outbuildings and would have submitted planning application 182467 anyway.

3.0_ Conclusions and recommendation

3.1 The planning application involves a change of occupancy which did not have any material impact on the setting of the adjacent listed building. Although it must be pointed out that the division of Sterling Lodge and New Barns in two separate dwellings may generate a requirement of changes in the site that can reflect on the historic asset, the review of the application on the basis of the existing situation can hardly provide sufficient reasons for objection on heritage grounds.

8.4 Archaeologist states:

"No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation."

8.5 Environmental Protection

"no comments" to make on the application.

9.0 **Parish Council Response**

9.1 Stanway Parish Council OBJECTS to this proposal and feel condition 3 should stay in place.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. No representations have been received.

11.0 Parking Provision

11.1 Sufficient space for two parking spaces at both the host dwelling and the proposed new dwelling.

12.0 Accessibility

12.1 The scheme complies with the provision of the Equalities Act and complies with DP17 which covers accessibility and access.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

- 16.1 The main issues in this case are:
- The Principle of Development
 - Impact on the Countryside
 - Private Amenity Space Provision
 - Parking Provision
 - Impact Upon setting of Listed Building
 - Wildlife Mitigation Payment

Principle of the Development and Impact on the Countryside

16.2 The main issue in terms of the principle of the proposal is that the site is located outside the settlement boundary and accordingly the creation of an independent dwelling in lieu of the existing annexe is a Departure to the development plan that needs to be justified. Whilst such development would be acceptable in principle within the settlement boundary (Core Strategy Policy SD1), development outside settlement boundaries is strictly controlled in order to protect and enhance the character of the countryside, as well as safeguard the

biodiversity, geology, history, and archaeology of undeveloped sites (Core Strategy Policy ENV1). Accordingly, the application has been advertised as a Departure to the Local Plan as it involves the provision of a new, independent residential unit in the countryside. It is important to note, however, that planning policy does not rule out development in the countryside altogether, but there are tighter controls to development in these locations. The main planning considerations for the principle of development in these cases are: whether the proposal represents sustainable development, having either a positive or negligible impact upon economic, social, and environmental factors; and its impact upon the character of the countryside.

16.3 The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

16.4 The NPPF goes on to state that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. It also states that to ensure sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

16.5 The annex is on the edge of the Colchester settlement boundary, it is approximately 0.5 miles from the Tollgate Retail Park and other services in this area. The site is also the same distance to numerous bus stops and bus routes including to Colchester and Braintree.

16.6 Both the use of the building as an annexe and as a private dwelling would support these facilities and businesses, as occupants would be likely to use them. The proposal is therefore likely to have a positive economic impact. There would also be an environmental benefit as the services are within walking distance from the site and there is access to a wider range of facilities and job

opportunities by means other than private car, which would reduce pollution from regular private car use. If the building remained empty because there was no one to occupy it because of the restriction, there would be a negative impact on the social and economic benefits.

- 16.7 The context of the site is relevant in determining the likely impacts upon the character of the countryside. The site is not visually part of the open countryside, it being located between longstanding residential development in the form of the host dwelling and the Oldhouse. The development appears as part of a ribbon of development along Church Lane. The surrounding area is well screened by a brick walls and hedging enclosing the Stirling Lodge Curtilage including New Barns. There is a strong boundary to the surrounding countryside. The frontage of the site where the building is located already reads more as part of the settlement than it does as part of the countryside. The building already exists and it is considered the development would not be harmful to the character or appearance of the wider countryside.
- 16.8 Since planning permission was granted in 2010 the settling of the site has change considerably. There has been the construction of the Lakeland development to the east of the site. As well as the creation of a new road bridge connecting Church Road to the new development. In the Emerging Local Plan which is at an advanced stage and should be given some weight a site 75m to the north of the site has been allocation for residential development. Further, evidencing that although outside of the settlement boundary the site is in a sustainable location.
- 16.9 The building itself is a single storey chalet style bungalow with hipped gables and black cladding. The interior of the building incorporates a kitchen, living room, hallway, two bedrooms and two en-suite bathrooms. The building already has permission for a residential use albeit ancillary to the main dwelling. No physical works are required to the building to allow the use to operate and there will be no change to the appearance of the site or surrounding area. The specific annexe use is also no longer required as family circumstances have changed since the time of the original approval, as outlined earlier.
- 16.10 As stated above, applications should be determined in accordance with the development plan unless material considerations indicate otherwise. One such consideration is the expression of Government policy. Paragraph 79 of the updated Framework, states that isolated new homes in the countryside should be avoided unless, amongst other things, the development would involve the subdivision of an existing residential dwelling. This exception is a recent addition to the framework following a recent revision in July 2018. By explicitly setting out this exception, national policy is acknowledging that there will be some circumstances where rural development will be acceptable despite non-compliance with the general aspiration to locate housing within settlement boundaries. In this instance it has been demonstrated that the building is not isolated, it is well located in relation to Colchester and close to facilities.

- 16.11 A recent appeal decision (28/9/18) at Winslade Manor, Exmouth Road, Cyst St Mary Exeter (APP/U1105/W/17/3191044) has some parallels with this case albeit in a more isolated location than the current proposal in Langham village. That appeal related to the occupation of an annex without complying with the condition that stated “The dwelling hereby permitted includes accommodation which may be used as an annex to the main dwelling but shall not be used as an independent unit of residential accommodation separate from that house.” The Inspector allowed the appeal and concluded the following:

“Para 16. The appeal proposal would divide the existing residential unit into two houses. There is therefore, no doubt that the proposal before me would involve the subdivision of an existing dwelling. Consequently, it is my view that the exception contained in Paragraph 79 (d) of the Framework, namely that the subdivision of an existing dwelling is acceptable in isolated locations, applies in this case.

Para 19. The Framework sets out a clear and recent statement of the Government’s policy in respect of the acceptability of residential subdivisions in isolated rural locations. As such, it is a material consideration that carries substantial weight in my decision and, in the particular circumstances of this case, outweighs the conflict with the development plan.”

- 16.12 Given all of the above factors, it is considered that a Departure to Policy has been justified.

Residential Amenity, Private Amenity Space and Parking Provision

- 16.13 It is considered that the new independent dwelling and the original dwelling known as Stirling Lodge can co-exist without there being any significant impact upon the residential amenity of the occupants of both properties, including from noise and disturbance, which accords with Policy DP1. There is plenty of space to provide adequate parking for both properties which is existing and separate. Essex County Council as the Local Highway Authority do not object to the proposal. It should be noted that regardless of whether the building is occupied as an annexe or as a separate unit, the occupiers are likely to own cars. Policy DP19, which states that two car parking spaces should be provided, has been met. There is also sufficient and separate private amenity space retained for both properties in accordance with Policy DP16.

Setting Of the Adjacent Listed Building

- 16.14 New Barns is situated at close distance to the Grade II listed Oldhouse Farmhouse and therefore has the potential to affect the historic building’s setting. The current proposal to remove condition 3 does not require any material alterations to the buildings or its surroundings which could have potential impact on the adjacent heritage asset. However, it could be argued

that the use of New Barns as an independent dwelling could generate new demands for additional floor space which may have the potential to impact the setting of the listed buildings by prompting further changes on the site. Therefore, to mitigate this concern Permitted Development rights for New Barns will be removed should the application be approved. Any future application could therefore be considered on its merits, including consideration of the impact upon the setting of the Listed Building.

Wildlife

- 16.15 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.
- 16.16 Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.
- 16.17 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the Government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £122.30, which applies to all residential development within the Zone of Influence (Zol). The whole of Colchester Borough is within the Zol. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.
- 16.18 Therefore should the application be granted approval a payment of £122.30 will be required.

Summary

- 16.19 Given the specific, physical circumstances of the proposal described above, and the lack of harm to the character and appearance of the area, the proposed development would not conflict with Core Strategy Policy ENV1 which aims to conserve and enhance Colchester's countryside. Overall it would achieve the three dimensions of sustainable development sought by Core Strategy Policies SD1 and H1, and which the Framework promotes.

17.0 Conclusion

- 17.1 Whilst the proposal is contrary to planning policy in terms of its location outside the village settlement boundary, planning approval is justified due to the particular site circumstances which would enable a change of use to take place without any negative impacts. The environmental aspects of the application are considered to be neutral but the proposal will provide limited social and economic benefits by affording a permanent new home for a family. The views of the Parish Council have been taken into account but are not considered to outweigh the benefits. Although such benefits would be small, nevertheless, it would fulfil the social and economic dimensions of sustainable development as set out in Paragraph 8 of the Framework which is a material consideration which outweighs the minor harm and conflict with the development plan. A conditional approval is recommended.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAM- Development To Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 11097-01 indexed 17th Jan 2019 and 'Site Location Plan' indexed 17th Jan 2019.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

2. ZDC-Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity, to ensure the development avoids an overdeveloped or cluttered appearance and in the interests of preserving the setting of the nearby Listed Building.

19.0 Informatives

19.1 The following informatives are also recommended:

1, ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

2. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.